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By: **Senators Hogan and McFadden (Task Force to Study Public School Facilities)**

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Committee Report: Favorable with amendments  
Senate action: Adopted with floor amendments  
Read second time: April 2, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public School Facilities Act of 2004**

3 FOR the purpose of authorizing counties to finance the construction or renovation of  
4 public school facilities, under certain circumstances, using alternative financing  
5 methods, engaging in competitive negotiation, accepting unsolicited proposals,  
6 and using quality based selection; authorizing a private entity to hold title to  
7 property used for a certain public school or school system under certain  
8 circumstances; clarifying that the requirements of certain provisions of the  
9 State Finance and Procurement Article apply to certain projects; expressing the  
10 intent of the General Assembly that the State Department of Education and the  
11 Public School Construction Program encourage local education agencies to use  
12 recently used school designs under certain circumstances; requiring the  
13 Interagency Committee on School Construction to survey the condition of  
14 certain school buildings; requiring the Department of General Services to  
15 conduct certain inspections; requiring the Interagency Committee to make a  
16 certain annual report to the Governor and the General Assembly; requiring the  
17 Department of General Services to submit a certain annual report to the State  
18 Department of Education and local education agencies; authorizing certain  
19 counties to issue certain bonds under certain circumstances; providing for the  
20 issuance and administration of the bonds; providing for the repayment of the  
21 bonds; ~~authorizing certain counties to impose a sales tax on certain retail sales,~~  
22 ~~subject to certain limits; authorizing certain counties to impose a certain~~  
23 ~~transfer tax on certain instruments, subject to certain limits~~; repealing a certain  
24 exemption from the Administrative Procedure Act; altering the amount of  
25 grants provided to counties under the Aging Schools Program; providing an  
26 exception to a certain mandatory level of State funds to be granted to Prince

1 George's County and Baltimore City; expressing the intent of the General  
 2 Assembly that the Board of Public Works establish an emergency repair fund to  
 3 be used to finance certain renovations and improvements to public schools;  
 4 specifying that the purchase of relocatable classrooms ~~are~~ is eligible for State  
 5 funding; requiring the Public School Construction Program to provide assistance  
 6 to Baltimore City, counties, and local education agencies in using alternative  
 7 financing mechanisms; requiring the Capital Debt Affordability Committee to  
 8 review certain school funding needs and to make a certain annual  
 9 recommendation; providing that private ownership of public schools does not  
 10 affect the status of local school system employees; requiring the State  
 11 Department of Education to adopt certain regulations; requiring the Board of  
 12 Public Works to adopt certain regulations; defining certain terms; providing for  
 13 the effective dates of this Act; and generally relating to the funding and  
 14 administration of public school construction.

15 BY repealing and reenacting, with amendments,  
 16 Article - Education  
 17 Section 4-114, 5-206(f), 5-301, and 5-302  
 18 Annotated Code of Maryland  
 19 (2001 Replacement Volume and 2003 Supplement)

20 BY adding to  
 21 Article - Education  
 22 Section 4-126 and 5-309 through 5-311; and 5-601 through 5-604, inclusive, to  
 23 be under the new subtitle "Subtitle 6. Authorization to Issue Bonds to  
 24 Fund Public School Construction"  
 25 Annotated Code of Maryland  
 26 (2001 Replacement Volume and 2003 Supplement)

27 ~~BY repealing and reenacting, with amendments,~~  
 28 ~~Article - Tax - General~~  
 29 ~~Section 11-102(b)~~  
 30 ~~Annotated Code of Maryland~~  
 31 ~~(1997 Replacement Volume and 2003 Supplement)~~

32 BY repealing and reenacting, with amendments,  
 33 Chapter 704 of the Acts of the General Assembly of 1998, as amended by  
 34 Chapter 420 of the Acts of the General Assembly of 2001 and Chapter 289  
 35 of the Acts of the General Assembly of 2002  
 36 Section 3

37 BY repealing and reenacting, with amendments,  
 38 Chapter 280 of the Acts of the General Assembly of 2001, as amended by  
 39 Chapter 288 of the Acts of the General Assembly of 2002 and Chapter 388  
 40 of the Acts of the General Assembly of 2003  
 41 Section 1

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Education**

4 4-114.

5 (a) All property granted, conveyed, devised, or bequeathed for the use of a  
6 particular public school or school system:

7 (1) [Shall] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,  
8 SHALL be held in trust for the benefit of the school or school system by the  
9 appropriate county board; and

10 (2) Is exempt from all State and local taxes.

11 (b) Money invested in trust for the benefit of the public schools for any county  
12 or city is exempt from all State and local taxes.

13 (C) (1) A PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY USED FOR A  
14 PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM IF THE PRIVATE ENTITY IS  
15 CONTRACTUALLY OBLIGATED TO TRANSFER TITLE TO THE APPROPRIATE COUNTY  
16 BOARD ON A SPECIFIED DATE.

17 (2) THE CONVEYANCE OF TITLE OF SCHOOL PROPERTY TO A PRIVATE  
18 ENTITY FOR A SPECIFIED TERM UNDER THIS SUBSECTION MAY NOT BE CONSTRUED  
19 TO PROHIBIT THE ALLOCATION OF CONSTRUCTION FUNDS TO AN APPROVED  
20 SCHOOL CONSTRUCTION PROJECT UNDER THE PUBLIC SCHOOL CONSTRUCTION  
21 PROGRAM.

22 (3) A COUNTY OR COUNTY BOARD MAY CONVEY OR DISPOSE OF  
23 SURPLUS LAND UNDER THE JURISDICTION OF THE COUNTY OR COUNTY BOARD IN  
24 EXCHANGE FOR PUBLIC SCHOOL CONSTRUCTION OR DEVELOPMENT SERVICES.

25 4-126.

26 (A) IN THIS SECTION, "ALTERNATIVE FINANCING METHODS" INCLUDES:

27 (1) SALE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD  
28 AGREES TO TRANSFER TITLE TO A PROPERTY, INCLUDING IMPROVEMENTS, TO A  
29 PRIVATE ENTITY THAT SIMULTANEOUSLY AGREES TO LEASE THE PROPERTY BACK  
30 TO THE COUNTY BOARD AND, ON A SPECIFIED DATE, TRANSFER TITLE BACK TO THE  
31 COUNTY BOARD;

32 (2) LEASE-LEASEBACK ARRANGEMENTS, IN WHICH A COUNTY BOARD  
33 LEASES A PROPERTY TO A PRIVATE ENTITY THAT IMPROVES THE PROPERTY AND  
34 LEASES THE PROPERTY, WITH THE IMPROVEMENTS, BACK TO THE COUNTY BOARD;

35 (3) PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS, IN WHICH A COUNTY  
36 BOARD CONTRACTS WITH A PRIVATE ENTITY FOR THE ACQUISITION, DESIGN,

1 CONSTRUCTION, IMPROVEMENT, RENOVATION, EXPANSION, EQUIPPING, OR  
2 FINANCING OF A PUBLIC SCHOOL, AND MAY INCLUDE PROVISIONS FOR  
3 COOPERATIVE USE OF THE SCHOOL OR AN ADJACENT PROPERTY AND GENERATION  
4 OF REVENUE TO OFFSET THE COST OF CONSTRUCTION OR USE OF THE SCHOOL; ~~AND~~

5 (4) PERFORMANCE-BASED CONTRACTING, IN WHICH A COUNTY BOARD  
6 ENTERS INTO AN ENERGY PERFORMANCE CONTRACT TO OBTAIN FUNDING FOR A  
7 PROJECT WITH GUARANTEED ENERGY SAVINGS OVER A SPECIFIED TIME PERIOD;  
8 AND

9 (5) DESIGN-BUILD ARRANGEMENTS, THAT PERMIT A COUNTY BOARD TO  
10 CONTRACT WITH A DESIGN-BUILD BUSINESS ENTITY FOR THE COMBINED DESIGN  
11 AND CONSTRUCTION OF QUALIFIED EDUCATION FACILITIES, INCLUDING  
12 FINANCING MECHANISMS WHERE THE BUSINESS ENTITY ASSISTS THE LOCAL  
13 GOVERNING BODY IN OBTAINING PROJECT FINANCING.

14 (B) EXCEPT WHEN PROHIBITED BY LOCAL LAW, IN ORDER TO FINANCE OR TO  
15 SPEED DELIVERY OF, TRANSFER RISKS OF, OR OTHERWISE ENHANCE THE DELIVERY  
16 OF PUBLIC SCHOOL CONSTRUCTION, A COUNTY MAY:

17 (1) USE ALTERNATIVE FINANCING METHODS;

18 (2) ENGAGE IN COMPETITIVE NEGOTIATION, RATHER THAN  
19 COMPETITIVE BIDDING, IN LIMITED CIRCUMSTANCES, INCLUDING CONSTRUCTION  
20 MANAGEMENT AT-RISK ARRANGEMENTS AND OTHER ALTERNATIVE PROJECT  
21 DELIVERY ARRANGEMENTS, AS PROVIDED IN REGULATIONS ADOPTED BY THE  
22 BOARD OF PUBLIC WORKS;

23 (3) ACCEPT UNSOLICITED PROPOSALS FOR THE DEVELOPMENT OF  
24 PUBLIC SCHOOLS IN LIMITED CIRCUMSTANCES, AS PROVIDED IN REGULATIONS  
25 ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

26 (4) USE QUALITY-BASED SELECTION, IN WHICH SELECTION IS BASED  
27 ON A COMBINATION OF QUALIFICATIONS AND COST FACTORS, TO SELECT  
28 DEVELOPERS AND BUILDERS, AS PROVIDED IN REGULATIONS ADOPTED BY THE  
29 BOARD OF PUBLIC WORKS.

30 (C) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS REQUIRING A  
31 PROJECT THAT QUALIFIES FOR ALTERNATIVE FINANCING METHODS UNDER THIS  
32 SECTION TO MEET REQUIREMENTS REGARDING THE ADVANTAGES OF THE PROJECT  
33 TO THE PUBLIC THAT INCLUDE PROVISIONS ADDRESSING:

34 (1) THE PROBABLE SCOPE, COMPLEXITY, OR URGENCY OF THE PROJECT;

35 (2) ANY RISK SHARING, ADDED VALUE, EDUCATION ENHANCEMENTS,  
36 INCREASE IN FUNDING, OR ECONOMIC BENEFIT FROM THE PROJECT THAT WOULD  
37 NOT OTHERWISE BE AVAILABLE;

38 (3) THE PUBLIC NEED FOR THE PROJECT; AND

1           (4)     THE ESTIMATED COST OR TIMELINESS OF EXECUTING THE PROJECT.

2     (D)     PROJECTS THAT QUALIFY FOR ALTERNATIVE FINANCING METHODS  
3 UNDER THIS SUBSECTION:

4           (1)     SHALL MEET THE EDUCATIONAL STANDARDS, DESIGN STANDARDS,  
5 AND PROCEDURAL REQUIREMENTS UNDER THIS ARTICLE AND UNDER  
6 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS; AND

7           (2)     CONSISTENT WITH THE REQUIREMENTS OF THIS ARTICLE, SHALL BE  
8 APPROVED BY:

9           (I)     THE COUNTY GOVERNING BODY;

10          (II)    THE STATE SUPERINTENDENT OF SCHOOLS; OR

11          (III)   THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION  
12 AND THE BOARD OF PUBLIC WORKS.

13     (E)     USE OF ALTERNATIVE FINANCING METHODS UNDER THIS SECTION MAY  
14 NOT BE CONSTRUED TO PROHIBIT THE ALLOCATION OF STATE FUNDS FOR PUBLIC  
15 SCHOOL CONSTRUCTION TO A PROJECT UNDER THE PUBLIC SCHOOL  
16 CONSTRUCTION PROGRAM.

17     (F)     A COUNTY BOARD MAY NOT USE ALTERNATIVE FINANCING METHODS  
18 UNDER THIS SECTION WITHOUT THE APPROVAL OF THE COUNTY GOVERNING BODY.

19     ~~(C)~~    (G)     AT THE REQUEST OF THE INTERAGENCY COMMITTEE ON SCHOOL  
20 CONSTRUCTION, THE BOARD OF PUBLIC WORKS MAY SHALL ADOPT REGULATIONS  
21 RECOMMENDED BY THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION TO  
22 IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING:

23           (1)     GUIDELINES FOR THE CONTENT OF PROPOSALS, FOR ~~THE~~ THE  
24 ACCEPTANCE AND EVALUATION OF UNSOLICITED PROPOSALS, AND FOR ACCEPTING  
25 COMPETING UNSOLICITED PROPOSALS;

26           (2)     REQUIREMENTS FOR THE CONTENT AND EXECUTION OF A  
27 COMPREHENSIVE AGREEMENT GOVERNING AN ARRANGEMENT AUTHORIZED UNDER  
28 THIS SECTION; ~~AND~~

29           ~~(3)     THE APPLICABILITY OF STATE PROCUREMENT LAWS TO~~  
30 ~~PROCUREMENT OR FINANCING OF PUBLIC SCHOOL CONSTRUCTION AUTHORIZED~~  
31 ~~UNDER THIS SECTION.~~

32           (3)     GUIDELINES FOR CONTENT AND ISSUANCE OF SOLICITATIONS;

33           (4)     REQUIREMENTS FOR THE PREQUALIFICATION OF BIDDERS OR  
34 OFFERORS;

1           (5)     REQUIREMENTS FOR PUBLIC NOTICE OF SOLICITED AND  
2 UNSOLICITED UNSOLICITED PROPOSALS AND PROPOSED EXECUTION OF A  
3 COMPREHENSIVE AGREEMENT;

4           (6)     REGULATIONS THAT REQUIRE COMPLIANCE WITH REQUIREMENTS  
5 APPLICABLE TO QUALIFIED PROJECTS THAT WOULD OTHERWISE BE IN EFFECT  
6 UNDER THE STATE PROCUREMENT LAW IF THE PROCUREMENT WERE  
7 COMPETITIVELY BID; AND

8           (7)     REGULATIONS THAT REQUIRE THAT CONTRACTS AND  
9 SUBCONTRACTS ADHERE TO THE REQUIREMENTS OF TITLE 17, SUBTITLE 2 AND  
10 TITLE 14 OF THE STATE FINANCE AND PROCUREMENT ARTICLE IF THE  
11 REQUIREMENTS WOULD OTHERWISE BE APPLICABLE.

12 5-302.

13         (a)     (1)     The BOARD OF PUBLIC WORKS SHALL ESTABLISH THE Interagency  
14 Committee on School Construction [established by the Board of Public Works is] AS  
15 a unit within the Department for administrative and budgetary purposes.

16           (2)     THE INTERAGENCY COMMITTEE CONSISTS OF THE FOLLOWING  
17 MEMBERS:

18                 (I)     THE STATE SUPERINTENDENT OF SCHOOLS, OR THE  
19 SUPERINTENDENT'S DESIGNEE;

20                 (II)    THE SECRETARY OF THE DEPARTMENT OF PLANNING, OR THE  
21 SECRETARY'S DESIGNEE; AND

22                 (III)   THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S  
23 DESIGNEE.

24           (3)     THE STATE SUPERINTENDENT OF SCHOOLS, OR THE  
25 SUPERINTENDENT'S DESIGNEE, SHALL BE THE CHAIRMAN OF THE INTERAGENCY  
26 COMMITTEE.

27           (4)     THE BOARD OF PUBLIC WORKS MAY DELEGATE THE  
28 ADMINISTRATIVE AND BUDGETARY AUTHORITY OF THE BOARD TO THE  
29 INTERAGENCY COMMITTEE AS DETERMINED BY THE BOARD TO BE NECESSARY AND  
30 APPROPRIATE.

31         (b)     (1)     The Department or any other State agency may lend its employees to  
32 serve as the staff for the Interagency Committee.

33           (2)     These employees shall be paid by the agency that employs them.

34         (c)     The Executive Director of the Interagency Committee shall be appointed  
35 by the Interagency Committee with the approval of the Board of Public Works.

1 (d) (1) (I) The Interagency Committee [on School Construction] shall  
2 prepare projections of school construction and capital improvement needs for  
3 submission to the Capital Debt Affordability Committee under § 8-112(c)(3) of the  
4 State Finance and Procurement Article.

5 (II) The projections shall be prepared in accordance with the [rules,  
6 regulations, and procedures] REGULATIONS adopted by the Board under § 5-301 of  
7 this subtitle.

8 (2) (I) The Board of Public Works or the Interagency Committee [on  
9 School Construction] shall notify each county board and each local governing body of  
10 the annual allocation of school construction funds recommended to the Board of  
11 Public Works by the Governor under the consolidated capital debt program of the  
12 State Finance and Procurement Article.

13 (II) The notification shall be made immediately after the Governor  
14 has recommended the allocations so that each county may structure its respective  
15 school construction and capital improvement priorities in accordance with the annual  
16 allocation and any amendments.

17 (E) (1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE INTERAGENCY  
18 COMMITTEE SHALL PROVIDE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS  
19 FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS THAT COMPRISE AT LEAST 75% OF  
20 THE ANTICIPATED SCHOOL CONSTRUCTION ALLOCATION FOR THE FOLLOWING  
21 FISCAL YEAR.

22 (2) THE REMAINING PUBLIC SCHOOL CONSTRUCTION ALLOCATION FOR  
23 THE FOLLOWING FISCAL YEAR MAY BE ALLOCATED BY THE BOARD OF PUBLIC  
24 WORKS AS PROVIDED IN REGULATION.

25 5-309.

26 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT AND  
27 THE PUBLIC SCHOOL CONSTRUCTION PROGRAM ENCOURAGE LOCAL EDUCATION  
28 AGENCIES TO REUSE RECENTLY USED SCHOOL DESIGNS, WHEN EDUCATIONALLY  
29 APPROPRIATE AND COST EFFECTIVE OVER THE USEFUL LIFE OF THE PROJECT,  
30 WITHIN EACH COUNTY AND ACROSS LOCAL SCHOOL SYSTEM BOUNDARIES.

31 5-310.

32 (A) EACH FISCAL YEAR, THE INTERAGENCY COMMITTEE SHALL SURVEY THE  
33 CONDITION OF SCHOOL BUILDINGS IDENTIFIED BY THE DEPARTMENT.

34 (B) THE DEPARTMENT OF GENERAL SERVICES SHALL CONDUCT THE  
35 INSPECTIONS OF INDIVIDUAL SCHOOL BUILDINGS THAT THE INTERAGENCY  
36 COMMITTEE REQUIRES TO COMPLETE THE SURVEY REQUIRED IN SUBSECTION (A) OF  
37 THIS SECTION.

38 (C) THE INTERAGENCY COMMITTEE SHALL REPORT TO THE GOVERNOR AND  
39 THE GENERAL ASSEMBLY, ON OR BEFORE OCTOBER 1 OF EACH YEAR, IN

1 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE  
2 RESULTS OF THE SURVEY FOR THE PRIOR FISCAL YEAR.

3 5-311.

4 ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT OF GENERAL  
5 SERVICES SHALL PROVIDE A REPORT TO THE DEPARTMENT AND EACH LOCAL  
6 EDUCATION AGENCY THAT DESCRIBES EXISTING STATE PURCHASING CONTRACTS  
7 THAT LOCAL EDUCATION AGENCIES MAY USE TO PURCHASE SCHOOL FURNITURE,  
8 EQUIPMENT, COMMODITIES, AND SERVICES.

9 SUBTITLE 6. AUTHORIZATION TO ISSUE BONDS TO FUND PUBLIC SCHOOL  
10 CONSTRUCTION.

11 5-601.

12 ~~EXCEPT AS PROVIDED IN § 5-603(B) AND (C) OF THIS SUBTITLE,~~ THE PROVISIONS  
13 OF THIS SUBTITLE DO NOT APPLY TO A COUNTY OTHERWISE AUTHORIZED TO ISSUE  
14 BONDS TO FUND PUBLIC SCHOOL CONSTRUCTION UNDER OTHER PROVISIONS OF  
15 THE CODE.

16 5-602.

17 (A) IN THIS SUBTITLE, "CONSTRUCTION OR IMPROVEMENT" MEANS THE  
18 PLANNING, DESIGN, ENGINEERING, ALTERATION, CONSTRUCTION,  
19 RECONSTRUCTION, ENLARGEMENT, EXPANSION, EXTENSION, IMPROVEMENT,  
20 REPLACEMENT, REHABILITATION, RENOVATION, UPGRADING, REPAIR, OR CAPITAL  
21 EQUIPPING.

22 (B) A COUNTY MAY ISSUE BONDS TO FINANCE ANY OR ALL OF THE COSTS OF  
23 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOLS IN THE COUNTY PROVIDED  
24 THAT THE CONSTRUCTION AND IMPROVEMENT CONTRACTS AND SUBCONTRACTS  
25 COMPLY WITH THE REQUIREMENTS OF TITLE 17, SUBTITLE 2 AND TITLE 14 OF THE  
26 STATE FINANCE AND PROCUREMENT ARTICLE IF THE REQUIREMENTS WOULD  
27 OTHERWISE BE APPLICABLE.

28 (C) (1) BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE  
29 GOVERNING BODY OF THE COUNTY.

30 (2) THE RESOLUTION SHALL:

31 (I) GENERALLY DESCRIBE THE PUBLIC SCHOOL CONSTRUCTION  
32 OR IMPROVEMENTS TO BE FINANCED THROUGH THE SALE OF THE BONDS;

33 (II) STATE THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS;

34 (III) DESCRIBE THE SOURCES OF REPAYMENT OF THE BONDS;

35 (IV) STATE THE MAXIMUM TERM OF THE BONDS, WHICH MAY NOT  
36 EXCEED 30 YEARS; AND

1 (V) DESCRIBE ANY TERMS OR CONDITIONS UNDER WHICH THE  
2 BONDS MAY BE REDEEMED BEFORE MATURITY.

3 (D) THE BONDS SHALL:

4 (1) BE DATED AND BEAR INTEREST AT A RATE SPECIFIED IN THE  
5 RESOLUTION;

6 (2) MATURE WITHIN 30 YEARS OF THE DATE OF ISSUANCE OF THE  
7 BONDS;

8 (3) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, FOR CASH OR OTHER  
9 CONSIDERATION;

10 (4) BE PAYABLE AT A TIME, IN THE DENOMINATION, IN REGISTERED  
11 FORM, WITHIN THE MEANING OF ARTICLE 31, § 30 OF THE CODE, AS SPECIFIED IN  
12 THE RESOLUTION;

13 (5) CARRY THE REGISTRATION AND PRIVILEGES AS TO CONVERSION  
14 AND FOR THE REPLACEMENT OF MUTILATED, LOST, OR DESTROYED BONDS, AS  
15 SPECIFIED IN THE RESOLUTION;

16 (6) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES OF  
17 AMERICA AT A DESIGNATED PLACE;

18 (7) BE SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN THE  
19 RESOLUTION; AND

20 (8) BE SOLD IN THE MANNER, INCLUDING PRIVATE OR NEGOTIATED  
21 SALE, AND UPON THE TERMS, SPECIFIED IN THE RESOLUTION.

22 (E) THE COUNTY MAY ENTER INTO AGREEMENTS WITH AGENTS, BANKS,  
23 FIDUCIARIES, INSURERS, OR OTHERS TO:

24 (1) ENHANCE THE MARKETABILITY OF AND SECURITY FOR THE BONDS;  
25 OR

26 (2) SECURE ANY TENDER OPTION GRANTED TO THE HOLDERS OF THE  
27 BONDS.

28 (F) IF ANY OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES TO BE  
29 AN OFFICER BEFORE DELIVERY OF THE BONDS, THE SIGNATURE IS VALID AND  
30 SUFFICIENT FOR ALL PURPOSES.

31 (G) THE BONDS, THEIR ISSUE, AND THEIR SALE MAY BE EXEMPT FROM THE  
32 PROVISIONS OF SECTIONS 9, 10, AND 11 OF ARTICLE 31 OF THE CODE.

33 (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE  
34 NET PROCEEDS OF THE SALE OF THE BONDS MAY ONLY BE APPLIED TO THE  
35 CONSTRUCTION OR IMPROVEMENT OF PUBLIC SCHOOL FACILITIES, AS DESCRIBED  
36 IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS.

1 (2) IF THE NET PROCEEDS OF THE SALE OF ANY BONDS EXCEEDS THE  
2 AMOUNT NEEDED FOR THE CONSTRUCTION OR IMPROVEMENT OF THE PUBLIC  
3 SCHOOL FACILITIES, AS DESCRIBED IN THE RESOLUTION, THE EXCESS FUNDS SHALL  
4 BE APPLIED TO:

5 (I) THE PAYMENT OF INTEREST ON THE BONDS;

6 (II) THE PAYMENT OF THE NEXT PRINCIPAL MATURITY OF THE  
7 BONDS;

8 (III) THE REDEMPTION OF ANY PART OF THE BONDS THAT ARE  
9 REDEEMABLE BEFORE MATURITY; OR

10 (IV) IF AUTHORIZED BY A RESOLUTION ISSUED BY THE GOVERNING  
11 BODY OF THE COUNTY, THE CONSTRUCTION OR IMPROVEMENT OF OTHER PUBLIC  
12 SCHOOL FACILITIES.

13 (I) BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS  
14 UNDER THE LAWS OF THIS STATE.

15 (J) BEFORE THE PREPARATION OF BONDS, THE COUNTY MAY ISSUE BOND  
16 ANTICIPATION NOTES IN ACCORDANCE WITH ARTICLE 31, § 12 OF THE CODE.

17 5-603.

18 (A) BONDS ISSUED UNDER THIS SUBTITLE CONSTITUTE AN IRREVOCABLE  
19 PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE  
20 COUNTY TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS  
21 WHEN THE BONDS BECOME PAYABLE.

22 ~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE~~  
23 ~~GOVERNING BODY OF A COUNTY MAY IMPOSE A TRANSFER TAX ON AN INSTRUMENT~~  
24 ~~OF WRITING, AS DEFINED IN § 13-101(C) OF THE TAX PROPERTY ARTICLE:~~

25 ~~(I) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR THE~~  
26 ~~COUNTY; OR~~

27 ~~(II) FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND~~  
28 ~~TAXATION.~~

29 ~~(2) A TRANSFER TAX IMPOSED UNDER THIS SUBSECTION:~~

30 ~~(I) MAY NOT EXCEED THE AMOUNT REQUIRED TO MAKE~~  
31 ~~PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO~~  
32 ~~FUND PUBLIC SCHOOL CONSTRUCTION; AND~~

33 ~~(II) DOES NOT APPLY TO AN INSTRUMENT OF WRITING EXEMPT~~  
34 ~~FROM THE STATE TRANSFER TAX UNDER § 13-207 OF THE TAX PROPERTY ARTICLE.~~

35 ~~(3) THIS SUBSECTION DOES NOT APPLY TO A COUNTY OTHERWISE~~  
36 ~~AUTHORIZED TO IMPOSE A TRANSFER TAX ON JUNE 30, 2004.~~

1 ~~(C)~~ (1) IN THIS SUBSECTION, "RETAIL SALE", "SALE", AND "TAXABLE PRICE"  
2 HAVE THE MEANINGS STATED IN § 11-101 OF THE TAX—GENERAL ARTICLE.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE  
4 GOVERNING BODY OF A COUNTY MAY IMPOSE, BY ORDINANCE, AND COLLECT A  
5 SALES TAX ON A RETAIL SALE WITHIN THE COUNTY.

6 ~~(3)~~ A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A SALE  
7 THAT IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX  
8 —GENERAL ARTICLE.

9 (4) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE  
10 AMOUNT REQUIRED TO MAKE PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND  
11 INTEREST ON BONDS ISSUED TO FUND PUBLIC SCHOOL CONSTRUCTION.

12 ~~(D)~~ (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
13 IN EVERY FISCAL YEAR IN WHICH ANY OF THE BONDS ARE OUTSTANDING, THE  
14 COUNTY SHALL LEVY AD VALOREM TAXES ON ALL ASSESSABLE PROPERTY WITHIN  
15 THE CORPORATE LIMITS OF THE COUNTY IN AN AMOUNT SUFFICIENT TO MAKE  
16 PAYMENTS, WHEN DUE, ON THE PRINCIPAL OF AND INTEREST ON THE BONDS.

17 (2) IF OTHER FUNDS ARE AVAILABLE TO PAY THE PRINCIPAL OF AND  
18 INTEREST ON THE BONDS, THE COUNTY MAY REDUCE THE TAXES THAT WOULD  
19 OTHERWISE NEED TO BE LEVIED UNDER THIS SECTION.

20 ~~(E)~~ (C) THE COUNTY MAY APPLY FUNDS RECEIVED FROM ANY SOURCE TO  
21 THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS.

22 5-604.

23 BONDS ISSUED UNDER THIS SUBTITLE ARE EXEMPT FROM STATE, COUNTY,  
24 AND MUNICIPAL TAXATION.

25 **Article—Tax—General**

26 ~~11-102.~~

27 (b) (1) A county, municipal corporation, special taxing district, or other  
28 political subdivision of the State may not impose any retail sales or use tax except:

29 (i) a sales tax or use tax that was in effect on January 1, 1971;

30 (ii) a tax on the sale or use of:

31 1. fuels;

32 2. utilities;

33 3. space rentals; or



1           (1)     The projects or improvements have been approved by the Board of  
2 Public Works; and

3           (2)     Contracts have been executed on or after July 1, 1971 for the projects  
4 or improvements.

5     [(c)   (1)     In this subsection, "local debt for school construction" includes any  
6 debt incurred as the result of money made available to a county under a bond issue  
7 that obligates the credit of the State.

8           (2)     Except for general public school construction loan debt outstanding  
9 or obligated as of June 30, 1967 for which repayment by a county is no longer  
10 required, the State shall reimburse each county for the full costs of principal and  
11 interest payments on any local debt for school construction outstanding or obligated  
12 as of June 30, 1967.

13     (d)     The State shall pay all of the annual cost of debt service on school  
14 construction debt incurred by each county that was outstanding or obligated on or  
15 after June 30, 1967 for contracts let before June 30, 1967.]

16     [(e)]   (D)   (1)     The Board of Public Works may adopt [rules, regulations, and  
17 procedures] REGULATIONS for the administration of the programs provided for [by  
18 subsections (b) and (d) of] IN this section.

19           (2)     The [rules, regulations, and procedures] REGULATIONS adopted by  
20 the Board of Public Works may contain requirements for:

21                   (i)     The development and submission of long range plans;

22                   (ii)    The submission of annual plans and plans for specific projects;

23                   (iii)   The submission of other data or information that is relevant to  
24 school construction or capital improvement;

25                   (iv)    The approval of sites, plans, and specifications for the  
26 construction of new school buildings or the improvement of existing buildings;

27                   (v)     Site improvements;

28                   (vi)    Competitive bidding;

29                   (vii)   The hiring of personnel in connection with school construction  
30 or capital improvements;

31                   (viii)   The actual construction of school buildings or their  
32 improvements;

33                   (ix)     The relative roles of different State and local governmental  
34 agencies in the planning and construction of school buildings or school capital  
35 improvements; [and]

1 (x) School construction and capital improvements necessary or  
2 appropriate for the proper implementation of this section;

3 (XI) AT THE RECOMMENDATION OF THE INTERAGENCY  
4 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION  
5 PROGRAMS;

6 (XII) DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT  
7 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

8 (XIII) THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL  
9 SYSTEMS;

10 (XIV) THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

11 (XV) METHOD OF PAYMENTS MADE BY THE STATE UNDER THE  
12 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

13 (3) THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
14 SHALL CONTAIN PROVISIONS:

15 (I) ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA  
16 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE  
17 FORMULAS;

18 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT  
19 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT  
20 PROGRAMS;

21 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE  
22 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

23 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE  
24 STATE FINANCE AND PROCUREMENT ARTICLE;

25 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES  
26 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE  
27 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

28 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY  
29 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

30 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,  
31 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;  
32 AND

33 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD  
34 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY  
35 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS  
36 PARAGRAPH.

1           (4)     In adopting any of these requirements, the State Board and the  
2 Board of Public Works shall provide for the maximum exercise of initiative by school  
3 personnel in each county to insure that the school buildings and improvements meet  
4 both the needs of the local communities and the rules and regulations necessary to  
5 insure the proper operation of this section and the prudent expenditure of State  
6 funds.

7     [(f)]   (E)     [(1)]    The Board of Public Works shall develop the rules, regulations,  
8 and procedures authorized by this section in consultation with representatives of the  
9 county boards and the county governing bodies.

10           [(2)     Before the adoption, amendment, or repeal of any rule, regulation, or  
11 procedure under this section, the Board of Public Works shall give notice of its  
12 intended action to the county boards and to the county governing bodies.

13           (3)     The Board of Public Works shall permit each county board and  
14 county governing body to submit its views with respect to the intended action.]

15     [(g)]   (F)     The [rules, regulations, and procedures] REGULATIONS AND  
16 PROCEDURES of the Board of Public Works adopted under this section and their  
17 promulgation are exempt from [ §§ 10-101 through 10-305 of the State Government  
18 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

19     [(h)]   (G)     (1)     With respect to public school construction or public school  
20 capital improvements, including sites for school buildings, the authority,  
21 responsibilities, powers, and duties of the following are subject to the [rules,  
22 regulations, and procedures] REGULATIONS adopted by the Board of Public Works  
23 under this section:

24                   (i)     The State Board;

25                   (ii)    The State Superintendent;

26                   (iii)   The county governments;

27                   (iv)   The county boards; and

28                   (v)     All other State or local governmental agencies under this  
29 article.

30           (2)     If, as to public school construction or public school capital  
31 improvements, there is any conflict between the [rules, regulations, and procedures]  
32 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,  
33 responsibilities, powers, and duties of the individuals and agencies specified in  
34 paragraph (1) of this subsection, the[ rules, regulations, and procedures]  
35 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

36     [(i)]   (H)     The obligation of the State to pay the costs of public school  
37 construction and public school capital improvements extends only to those projects or

1 parts of projects that comply with the [rules, regulations, and procedures]  
 2 REGULATIONS AND PROCEDURES of the Board of Public Works.

3 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,  
 4 lease, or disposition of public school buildings constructed under contracts executed  
 5 before February 1, 1971.

6 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE  
 7 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §  
 8 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that  
 9 the PORTION OF THE proceeds received by a county from the sale, lease, or disposal of  
 10 any public school building THAT REPRESENT STATE FUNDS PROVIDED WITHIN 15  
 11 YEARS PRIOR TO THE DATE OF THE TRANSACTION shall be used solely as part of the  
 12 State funding of the construction of future public school buildings in the county in  
 13 which the sale, lease, or disposal occurred, if the public school building was:  
 14 CONSTRUCTED UNDER A CONTRACT EXECUTED ON OR AFTER FEBRUARY 1, 1971.

15 (i) ~~Constructed under a contract executed on or after February 1,~~  
 16 ~~1971; and~~

17 (ii) ~~Paid for primarily with State funds under this section.~~

18 (3) The part of the proceeds from the sale, lease, or disposal of a public  
 19 school building that fairly represents the appraised value of land and that part of the  
 20 cost of the public school building that was funded by the county shall remain as the  
 21 funds of the county.

22 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all  
 23 money appropriated to carry out the purposes of this section is a separate fund that  
 24 shall be administered by the State Comptroller in accordance with the [rules and]  
 25 regulations adopted by the Board of Public Works.

26 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
 27 PARAGRAPH, NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF THE  
 28 ANNOTATED CODE, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN  
 29 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL  
 30 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

31 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE  
 32 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH  
 33 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT  
 34 UNUSUAL CIRCUMSTANCES EXIST.

35 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY  
 36 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER  
 37 PARAGRAPH (1) OF THIS SUBSECTION.

38 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE  
 39 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN  
 40 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE

1 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED  
2 UNDER THIS SUBSECTION.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
4 read as follows:

5 **Article - Education**

6 5-301.

7 (a) IN THIS SUBTITLE, "INTERAGENCY COMMITTEE" MEANS THE  
8 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION ESTABLISHED UNDER §  
9 5-302 OF THIS SUBTITLE.

10 (B) (1) For the purposes of this section other than subsection (c), the Board  
11 of Public Works shall define by regulation what constitutes an [approved] ELIGIBLE  
12 AND INELIGIBLE public school construction or capital improvement cost.

13 (2) The cost of acquiring land may not be considered a construction or  
14 capital improvement cost and may not be paid by the State.

15 [(b)] (C) The State shall pay the costs in excess of available federal funds of  
16 [all] THE STATE SHARE OF public school construction projects and public school  
17 capital improvements in each county if:

18 (1) The projects or improvements have been approved by the Board of  
19 Public Works; and

20 (2) Contracts have been executed on or after July 1, 1971 for the projects  
21 or improvements.

22 [(c)] (1) In this subsection, "local debt for school construction" includes any  
23 debt incurred as the result of money made available to a county under a bond issue  
24 that obligates the credit of the State.

25 (2) Except for general public school construction loan debt outstanding  
26 or obligated as of June 30, 1967 for which repayment by a county is no longer  
27 required, the State shall reimburse each county for the full costs of principal and  
28 interest payments on any local debt for school construction outstanding or obligated  
29 as of June 30, 1967.

30 (d) The State shall pay all of the annual cost of debt service on school  
31 construction debt incurred by each county that was outstanding or obligated on or  
32 after June 30, 1967 for contracts let before June 30, 1967.]

33 [(e)] (D) (1) The Board of Public Works may adopt [rules, regulations, and  
34 procedures] REGULATIONS for the administration of the programs provided for [by  
35 subsections (b) and (d) of] IN this section.

1                   (2)     The [rules, regulations, and procedures] REGULATIONS adopted by  
2 the Board of Public Works may contain requirements for:

3                   (i)     The development and submission of long range plans;

4                   (ii)    The submission of annual plans and plans for specific projects;

5                   (iii)   The submission of other data or information that is relevant to  
6 school construction or capital improvement;

7                   (iv)    The approval of sites, plans, and specifications for the  
8 construction of new school buildings or the improvement of existing buildings;

9                   (v)     Site improvements;

10                  (vi)    Competitive bidding;

11                  (vii)   The hiring of personnel in connection with school construction  
12 or capital improvements;

13                  (viii)   The actual construction of school buildings or their  
14 improvements;

15                  (ix)     The relative roles of different State and local governmental  
16 agencies in the planning and construction of school buildings or school capital  
17 improvements; [and]

18                  (x)     School construction and capital improvements necessary or  
19 appropriate for the proper implementation of this section;

20                  (XI)    AT THE RECOMMENDATION OF THE INTERAGENCY  
21 COMMITTEE, THE ESTABLISHMENT OF PRIORITY PUBLIC SCHOOL CONSTRUCTION  
22 PROGRAMS;

23                  (XII)   DEVELOPMENT OF COOPERATIVE ARRANGEMENTS THAT  
24 PERMIT THE SHARING OF FACILITIES AMONG TWO OR MORE SCHOOL SYSTEMS;

25                  (XIII)   THE SELECTION OF ARCHITECTS AND ENGINEERS BY SCHOOL  
26 SYSTEMS;

27                  (XIV)   THE AWARD OF CONTRACTS BY SCHOOL SYSTEMS; AND

28                  (XV)    METHOD OF PAYMENTS MADE BY THE STATE UNDER THE  
29 PUBLIC SCHOOL CONSTRUCTION PROGRAM.

30                  (3)     THE REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
31 SHALL CONTAIN PROVISIONS:

32                  (I)     ESTABLISHING A STATE AND LOCAL COST-SHARE FORMULA  
33 FOR EACH COUNTY THAT IDENTIFIES THE FACTORS USED IN ESTABLISHING THE  
34 FORMULAS;

1 (II) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT  
2 EDUCATIONAL FACILITIES MASTER PLANS AND ANNUAL CAPITAL IMPROVEMENT  
3 PROGRAMS;

4 (III) PROVIDING A METHOD FOR ESTABLISHING A MAXIMUM STATE  
5 CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

6 (IV) REFERENCING THE POLICIES STATED IN § 5-7B-07 OF THE  
7 STATE FINANCE AND PROCUREMENT ARTICLE;

8 (V) REQUIRING LOCAL SCHOOL SYSTEMS TO ADOPT PROCEDURES  
9 CONSISTENT WITH THE MINORITY BUSINESS ENTERPRISE POLICIES OF THE STATE  
10 AS REQUIRED UNDER THE CODE OF MARYLAND REGULATIONS;

11 (VI) ESTABLISHING A PROCESS FOR THE APPEAL OF DECISIONS BY  
12 THE INTERAGENCY COMMITTEE TO THE BOARD OF PUBLIC WORKS;

13 (VII) REQUIRING LOCAL EDUCATION AGENCIES TO ADOPT,  
14 IMPLEMENT, AND PERIODICALLY UPDATE COMPREHENSIVE MAINTENANCE PLANS;  
15 AND

16 (VIII) AUTHORIZING THE BOARD OF PUBLIC WORKS TO WITHHOLD  
17 STATE PUBLIC SCHOOL CONSTRUCTION FUNDS FROM A LOCAL EDUCATION AGENCY  
18 THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF ITEM (VII) OF THIS  
19 PARAGRAPH.

20 (4) In adopting any of these requirements, the State Board and the  
21 Board of Public Works shall provide for the maximum exercise of initiative by school  
22 personnel in each county to insure that the school buildings and improvements meet  
23 both the needs of the local communities and the rules and regulations necessary to  
24 insure the proper operation of this section and the prudent expenditure of State  
25 funds.

26 [(f)] (E) [(1)] The Board of Public Works shall develop the rules, regulations,  
27 and procedures authorized by this section in consultation with representatives of the  
28 county boards and the county governing bodies.

29 [(2)] Before the adoption, amendment, or repeal of any rule, regulation, or  
30 procedure under this section, the Board of Public Works shall give notice of its  
31 intended action to the county boards and to the county governing bodies.

32 (3) The Board of Public Works shall permit each county board and  
33 county governing body to submit its views with respect to the intended action.]

34 [(g)] (F) The [rules, regulations, and procedures] REGULATIONS AND  
35 PROCEDURES of the Board of Public Works adopted under this section and their  
36 promulgation are exempt from [ §§ 10-101 through 10-305 of the State Government  
37 Article and] § 8-127(b) of the State Finance and Procurement Article of the Code.

1 [(h)] (G) (1) With respect to public school construction or public school  
 2 capital improvements, including sites for school buildings, the authority,  
 3 responsibilities, powers, and duties of the following are subject to the [rules,  
 4 regulations, and procedures] REGULATIONS adopted by the Board of Public Works  
 5 under this section:

- 6 (i) The State Board;
- 7 (ii) The State Superintendent;
- 8 (iii) The county governments;
- 9 (iv) The county boards; and
- 10 (v) All other State or local governmental agencies under this  
 11 article.

12 (2) If, as to public school construction or public school capital  
 13 improvements, there is any conflict between the [rules, regulations, and procedures]  
 14 REGULATIONS AND PROCEDURES of the Board of Public Works and the authority,  
 15 responsibilities, powers, and duties of the individuals and agencies specified in  
 16 paragraph (1) of this subsection, the[ rules, regulations, and procedures]  
 17 REGULATIONS AND PROCEDURES of the Board of Public Works shall prevail.

18 [(i)] (H) The obligation of the State to pay the costs of public school  
 19 construction and public school capital improvements extends only to those projects or  
 20 parts of projects that comply with the [rules, regulations, and procedures]  
 21 REGULATIONS AND PROCEDURES of the Board of Public Works.

22 [(j)] (I) (1) This subsection does not apply to the proceeds from the sale,  
 23 lease, or disposition of public school buildings constructed under contracts executed  
 24 before February 1, 1971.

25 (2) [By rule or regulation] CONSISTENT WITH § 4-115 OF THIS ARTICLE  
 26 AND REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS TO IMPLEMENT §  
 27 4-126 OF THIS ARTICLE, the Board of Public Works may require BY REGULATION that  
 28 the PORTION OF THE proceeds received by a county from the sale, lease, or disposal of  
 29 any public school building THAT REPRESENT STATE FUNDS PROVIDED WITHIN 15  
 30 YEARS PRIOR TO THE DATE OF THE TRANSACTION shall be used solely as part of the  
 31 State funding of the construction of future public school buildings in the county in  
 32 which the sale, lease, or disposal occurred, if the public school building was:  
 33 CONSTRUCTED UNDER A CONTRACT EXECUTED ON OR AFTER FEBRUARY 1, 1971.

34 (i) ~~Constructed under a contract executed on or after February 1,~~  
 35 ~~1971; and~~

36 (ii) ~~Paid for primarily with State funds under this section.~~

37 (3) The part of the proceeds from the sale, lease, or disposal of a public  
 38 school building that fairly represents the appraised value of land and that part of the

1 cost of the public school building that was funded by the county shall remain as the  
2 funds of the county.

3 [(k)] (J) (1) Whether by budget bill or supplementary appropriation bill, all  
4 money appropriated to carry out the purposes of this section is a separate fund that  
5 shall be administered by the State Comptroller in accordance with the [rules and]  
6 regulations adopted by the Board of Public Works.

7 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
8 PARAGRAPH, ANY FUNDS APPROVED FOR A PROJECT THAT HAS NOT BEEN  
9 CONTRACTED FOR WITHIN 2 YEARS OF THE APPROVAL OF THE PROJECT SHALL  
10 REVERT TO THE FUND ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11 (II) THE INTERAGENCY COMMITTEE, WITH THE APPROVAL OF THE  
12 BOARD OF PUBLIC WORKS, MAY EXTEND THE TIME PERIOD UNDER SUBPARAGRAPH  
13 (I) OF THIS PARAGRAPH IF THE INTERAGENCY COMMITTEE DETERMINES THAT  
14 UNUSUAL CIRCUMSTANCES EXIST.

15 (3) ANY UNEXPENDED ALLOCATIONS OF FUNDS FOR PREVIOUSLY  
16 APPROVED PROJECTS SHALL BE TRANSFERRED TO THE FUND ESTABLISHED UNDER  
17 PARAGRAPH (1) OF THIS SUBSECTION.

18 (4) ON OR BEFORE JUNE 1 AND DECEMBER 1 OF EACH YEAR, THE  
19 INTERAGENCY COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY, IN  
20 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE  
21 BALANCE IN THE FUND AS THE RESULT OF TRANSFERS OR REVERSIONS REQUIRED  
22 UNDER THIS SUBSECTION.

23 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
24 read as follows:

25 **Article - Education**

26 5-206.

27 (f) In fiscal year [2004] 2006 and in each fiscal year thereafter, the State shall  
28 distribute grants to county boards under the Aging Schools Program administered by  
29 the Interagency Committee on School Construction in the following amounts:

30	(1)	Allegany County .....	[\$355,000] \$166,000
31	(2)	Anne Arundel County .....	[\$570,000] \$859,000
32	(3)	Baltimore City .....	[\$1,635,000] \$2,356,000
33	(4)	Baltimore County.....	[\$2,940,000] \$1,484,000
34	(5)	Calvert County .....	\$65,000
35	(6)	Caroline County .....	\$85,000

1	(7)	Carroll County	.....	[\$385,000]	\$233,000
2	(8)	Cecil County	.....	[\$355,000]	\$163,000
3	(9)	Charles County	.....	[\$65,000]	\$85,000
4	(10)	Dorchester County	.....		\$65,000
5	(11)	Frederick County	.....	[\$85,000]	\$310,000
6	(12)	Garrett County	.....	[\$85,000]	\$65,000
7	(13)	Harford County	.....	[\$400,000]	\$369,000
8	(14)	Howard County	.....	[\$65,000]	\$149,000
9	(15)	Kent County	.....		\$65,000
10	(16)	Montgomery County	.....	[\$1,170,000]	\$1,023,000
11	(17)	Prince George's County	.....	[\$970,000]	\$2,053,000
12	(18)	Queen Anne's County	.....		\$85,000
13	(19)	St. Mary's County	.....		\$85,000
14	(20)	Somerset County	.....		\$65,000
15	(21)	Talbot County	.....	[\$155,000]	\$65,000
16	(22)	Washington County	.....	[\$200,000]	\$229,000
17	(23)	Wicomico County	.....	[\$355,000]	\$181,000
18	(24)	Worcester County	.....		\$65,000

19 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
20 read as follows:

21 **Chapter 704 of the Acts of 1998, as amended by Chapter 420 of the Acts of**  
22 **2001 and Chapter 289 of the Acts of 2002**

23 SECTION 3. AND BE IT FURTHER ENACTED, That, UNLESS REGULATIONS  
24 ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO PROVIDE A  
25 LARGER PERCENTAGE, for fiscal years 1999 through 2007, in each year, the State  
26 shall provide 75 percent of the eligible costs for up to \$35 million in public school  
27 construction costs in Prince George's County. At least \$20 million of the State funds  
28 must be spent each year on neighborhood school projects. For fiscal years 1999  
29 through 2003, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
30 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35  
31 million, the State shall provide 60 percent of the eligible costs. For fiscal years 2004

1 through 2007, UNLESS REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS  
2 REQUIRE THE STATE TO PROVIDE A LARGER PERCENTAGE, for funding above \$35  
3 million, the State shall provide 65 percent of the eligible costs. Neighborhood school  
4 projects shall be identified by the Interagency Committee on Public School  
5 Construction and shall include new public schools and additions or improvements to  
6 existing public schools which serve students reassigned to their local communities  
7 based upon the Community Schools Education Plan developed by the Prince George's  
8 County Board of Education.

9 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
10 read as follows:

11 **Chapter 280 of the Acts of 2001, as amended by Chapter 288 of the Acts of**  
12 **2002 and Chapter 388 of the Acts of 2003**

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That, notwithstanding any other provision of law, UNLESS  
15 REGULATIONS ADOPTED BY THE BOARD OF PUBLIC WORKS REQUIRE THE STATE TO  
16 PROVIDE A LARGER PERCENTAGE, for fiscal years 2002 through 2005, in each year,  
17 the State shall provide 90 percent of the eligible costs for up to and including \$20  
18 million in public school construction projects in Baltimore City, and for funding above  
19 \$20 million, the State shall provide 75 percent of the eligible costs.

20 SECTION 7. AND BE IT FURTHER ENACTED, That, on or before July 1,  
21 2005, at the request of the Interagency Committee on School Construction, the Board  
22 of Public Works shall adopt regulations, in accordance with Title 10, Subtitle 1 of the  
23 State Government Article, to implement the provisions of this Act and that:

24 (1) reduce the State rated classroom capacity for elementary grades 1 to 5 to  
25 23 students per classroom;

26 (2) establish a planning priority process to evaluate requests for State  
27 planning approval in the annual Capital Improvement Programs of local education  
28 agencies;

29 (3) develop design guidelines and provide financial incentives, such as  
30 supplemental design funds or additional construction funding, for school construction  
31 projects that use innovative building techniques or include energy conservation,  
32 sustainable building, or green architecture design features; and

33 (4) establish a new State and local cost-share formula for each county for use  
34 beginning in fiscal year 2006, consistent with the recommendations contained in the  
35 Report of the Task Force to Study Public School Facilities, issued in February 2004  
36 provided that:

37 (i) pay-as-you-go funding provided by a county shall be included in the  
38 local debt calculation used to determine the State share; and

1           (ii)     the new State and local cost-share formula adopted under this  
2 section shall ensure that during fiscal year 2006 through fiscal year 2008, no county  
3 has a State share that is less than the county's State share in fiscal year 2005.

4       SECTION 8. AND BE IT FURTHER ENACTED, That the State Department  
5 of Education shall adopt regulations that provide for periodic surveys of the condition  
6 of public school facilities in Maryland at least every 4 years. The surveys should be  
7 similar to the Facility Assessment Survey that the State Department conducted, at  
8 the direction of the Task Force to Study Public School Facilities, in 2003. The State  
9 shall provide funds necessary to conduct the survey.

10       SECTION 9. AND BE IT FURTHER ENACTED, That it is the intent of the  
11 General Assembly that the Board of Public Works and the Interagency Committee on  
12 School Construction establish an emergency repair fund to finance renovations and  
13 improvements to public schools that resolve deficiencies that present an immediate  
14 hazard to the health or safety of the students or staff of the schools, as certified by  
15 local education agencies and approved by the Interagency Committee on School  
16 Construction. By July 1, 2004, the Board of Public Works and the Interagency  
17 Committee on School Construction shall develop procedures for use of the emergency  
18 repair fund to resolve deficiencies that present an immediate health or safety hazard  
19 and to resolve deficiencies that, if not corrected, may present an immediate health or  
20 safety hazard. It is the intent of the General Assembly that at least \$2 million be  
21 provided for the emergency repair fund in fiscal year 2005.

22       SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the  
23 Governor and the General Assembly that the State should pursue a goal of fully  
24 funding by fiscal 2013 a minimum of \$3.85 billion in school facility needs, as  
25 identified by the 2003 School Facility Assessment Survey of minimum standards  
26 conducted at the request of the Task Force to Study Public School Facilities.  
27 Achieving this ~~goal~~ goal in light of the fiscal outlook will be challenging and will  
28 require a significant commitment by the State to provide approximately \$2 billion  
29 and by local governments to provide approximately \$1.85 billion over the next 8 years  
30 for school construction projects. It is recognized that this amount does not include  
31 many projects that local education agencies believe are necessary, but it does include  
32 basic, minimum facility standards for all public schools in Maryland.

33       SECTION 11. AND BE IT FURTHER ENACTED, That in 2005, and each year  
34 thereafter, the Capital Debt Affordability Committee shall review the additional  
35 school construction funding needs as identified in the 2004 Task Force to Study Public  
36 School Facilities report and shall make a specific recommendation regarding  
37 additional funding for school construction when recommending the State's annual  
38 debt limit. The recommendation by the Capital Debt Affordability Committee shall  
39 include a multiyear funding recommendation that will provide stability in the annual  
40 funding for school construction.

41       SECTION 12. AND BE IT FURTHER ENACTED, That notwithstanding any  
42 private ownership of public schools authorized under this Act, all certificated and  
43 noncertificated employees of local school systems shall remain employees of the local  
44 school system.

1 SECTION ~~44.~~ 13. AND BE IT FURTHER ENACTED, That the Public School  
2 Construction Program shall provide assistance to Baltimore City, counties, and local  
3 education agencies in using alternative financing mechanisms to fund school  
4 construction, when appropriate. The Public School Construction Program shall  
5 prepare a guide for Baltimore City, counties, and local education agencies to use when  
6 evaluating alternative financing proposals. The guide should include model contracts,  
7 model solicitations, and references to other documents which provide information on  
8 alternative financing. The Public School Construction Program should help Baltimore  
9 City, counties, and local education agencies identify when an alternative financing  
10 mechanism may be appropriate for a particular project and to develop the  
11 procurement, contractual, and technical instruments that will meet State and local  
12 procurement requirements and bring the project to a successful conclusion. The  
13 Public School Construction Program shall report to the Board of Public Works,  
14 Baltimore City, the county governments, local education agencies, and the General  
15 Assembly on or before September 1 of each year, in accordance with § 2-1246 of the  
16 State Government Article, on the use of alternative financing mechanisms to finance  
17 public school construction in Maryland in the prior fiscal year.

18 SECTION ~~42.~~ 14. AND BE IT FURTHER ENACTED, That Section 3 of this  
19 Act shall take effect July 1, 2008.

20 SECTION ~~43.~~ 15. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of  
21 this Act shall take effect July 1, 2005. Section 2 of this Act shall remain effective for  
22 a period of 3 years and, at the end of June 30, 2008, with no further action required by  
23 the General Assembly, Section 2 of this Act shall be abrogated and of no further force  
24 and effect.

25 SECTION ~~44.~~ 16. AND BE IT FURTHER ENACTED, That, except as provided  
26 in Sections ~~42 and 43~~ 14 and 15 of this Act, this Act shall take effect July 1, 2004.